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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,304	09/30/2003	Kunibert Husung	P03,0413	5359
26574	7590	09/06/2006	EXAMINER	
SCHIFF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2615	

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/675,304

Applicant(s)

HUSUNG ET AL.

Examiner

Phylesha L. Dabney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/26/06.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to the application filed on 26 June 2006 in which claims 1-14 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –130

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 7-8, and 11-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Pedersen (U.S. Patent No. 2004/0247148).

Regarding claims 1-2, they disclose the method corresponding to the apparatus claims 7-8. The method is inherent in that it simply provides the logical implementations of the structure found in claims 7-8.

Regarding claims 7 and 11-13, Pedersen teaches a hearing aid device or hearing device system, comprising: at least one input transducer (paragraph 0003 and 0007) configured to acquire an input signal and transduce it into an electrical signal; an A/D converter (paragraph 0011) configured to convert the electrical input signal into a digital signal; a digital signal processing unit ((DSPM) configured to process the digital signal; a clock generator (CGM, paragraphs 0010 and 0093) configured to generate a clock signal to control the digital signal processing unit; an output transducer (paragraph 0003 and 0007) and inherently includes at least

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one of a transmitting and receiving unit (paragraph 0091) configured to wirelessly transmit between the hearing aid device or hearing device system and a further device; and a jitter unit (PLL, paragraph 0093) associated with the clock generator configured to generate frequency oscillations in the clock signal.

Regarding claim 8, Pederson teaches an internal clock signal of the clock generator (CGM) is modulated with a further signal (produced by the PLL, paragraph 0093) to generate the frequency oscillations of the clock signal.

Regarding claim 14, Pedersen teaches a remote unit for storing addition programs (paragraph 0091) which inherently reads on a further hearing aid device and the ability to transmit this stored information the hearing aid (paragraph 0091) which reads there being at least one of a further external transmitting unit and receiving unit connected with the further hearing aid device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pedersen.

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Regarding claims 3-6, they disclose the method corresponding to the apparatus claims 9-12. The method is inherent in that it simply provides the logical implementations of the structure found in claims 9-12.

Regarding claim 9, Pedersen does not specifically teach the internal clock system is modulated with a sine signal; however he does teach the system is modulated by a PLL circuit. It is known for PLL circuits to produce modulated signal of any wave pattern, such as sawtooth, sine, etc., for beneficially adjusting the signal of the clock up and down. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use any wave pattern, such as sine wave pattern, in the invention of Pedersen for improving the clock signal.

Regarding claim 10, Pedersen does not specifically teach the internal clock system is modulated with a noise signal; however he does teach the system is modulated by a PLL circuit. It is known for PLL circuits to produce a noise signal and to beneficially control this noise signal for increasing or decreasing the amount of jitter. It would have been obvious to one ordinary skill in the art to use the noise signal produced by the PLL circuit of Pedersen to increase or decrease the amount of jitter produced.

Response to Amendment

1. Applicant's arguments filed have been fully considered but they are not persuasive.
2. The declaration filed on 29 March 2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Pedersen reference.

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The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Pedersen reference to either a constructive reduction to practice or an actual reduction to practice. The Applicant must show diligence in the completion of the invention from the time just prior to the date of the reference continuously up to the date of the actual reduction to practice or up to the filing date of the application. Evidence of diligence must be shown for the entire critical period. If there is a long interval of unexplained inactivity, then diligence has not be established.

The Applicant must show completion of the invention commensurate with the extent that the whole invention as claimed is shown by evidence. This evidence must include:

- 1) a statement of facts.
- 2) the facts must be shown in the form of sketches, blueprints, notebook entries, models, etc., for the entire critical time period.
- 3) all acts relied upon must have occurred in this country or a NAFTA or WTO member country after the effective date of the Pedersen reference.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

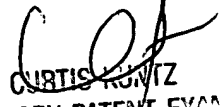
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 4, 2006


PLD


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